

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4618-01
BILL NO.: HB 2139
SUBJECT: Employment Security Benefits
TYPE: Original
DATE: April 4, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None *	\$0*	\$0*	\$0*
Total Estimated Net Effect on <u>All</u> Federal Funds *	\$0*	\$0*	\$0*

***DOES NOT REFLECT POTENTIAL LOSS OF FEDERAL ADMINISTRATIVE
GRANTS DUE TO POSSIBLE NONCOMPLIANCE WITH FEDERAL LAW.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of Administration - Division of Personnel** and the **Department of Transportation** assume the proposal would have no fiscal impact on their agencies.

Officials of the **Department of Labor and Industrial Relations (DOL)** assume the proposal may not conform with federal law. If Missouri's law is formally determined to be out of conformity with federal law, DOL officials assume it could cost Missouri employers as much as \$970 million annually due to the loss of FUTA tax credits and result in the loss of over \$40 million annually in federal administrative grants for DOL. DOL notes that the lifetime denial of benefits in the proposal provides that a "claimant shall not be eligible for benefits from the employment security fund for any weeks...at anytime following his or her termination from such job". This language appears to conflict with 3304(a)(10) FUTA which states "compensation shall not be denied to any individual by reason of cancellation of wage credits or total reduction of his benefit rights for any cause". Nothing under federal standards allow for a lifetime ban on benefits. The ineligibility would follow the claimant who failed the drug test even though they have gone on to other employment. FUTA does not allow payment to be denied based on factors unrelated to a claimant's unemployment. DOL also assumes that provisions which appear to assess a second penalty to individuals for the same act or separation regarding the four to sixteen week disqualification period may violate federal standards.

DOL also assumes that the proposal may increase the number of claimants denied benefits for failing drug tests. In addition to the various factors currently used by the Division of Employment Security in finding misconduct when an individual is discharged or suspended for failing a drug test, the proposal would include circumstances that could place the safety of other employees at risk, and it removes the reasonable suspicion and conduct showing impairment requirements currently established. Claims under the current guidelines cannot be identified by DOL, and those claims that could be affected under this proposal cannot be predicted. Therefore, DOL cannot reasonably estimate the potential savings to the unemployment compensation trust fund, but assumes the amount would be minimal.

Oversight assumes that any loss of federal funds would depend upon determination of noncompliance by the U.S. Department of Labor and the imposition of sanctions by the U.S. Department of Labor. The likelihood of such sanctions would be speculative. For fiscal note purposes, no impact to federal funds is reflected.

	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>FISCAL IMPACT - State Government</u>			
	\$0	\$0	\$0
	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>FISCAL IMPACT - Local Government</u>			
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal, depending upon conformity with federal law and any sanctions imposed by the U.S. Department of Labor.

DESCRIPTION

This proposal changes construction of the employment security laws to "impartial" from "liberal" and adds as a means of accomplishing the stated goal of promoting employment security, increasing equal treatment of all employees and employers by the Labor and Industrial Relations Commission by equal consideration of all evidence presented to it.

Under current law, a person is not eligible for unemployment benefits for any week during which the person was suspended by an employer for misconduct connected with work. This proposal also disallows unemployment benefits if the person was terminated from work by an employer for misconduct. The proposal includes in the interpretation of "misconduct connected with work" any professionally administered and documented positive chemical test result for a controlled substance if (1) the person's work is related to heavy equipment or places the public at risk, including but not limited to operation of planes, trains, boats, and motor vehicles; or (2) the employer's written policy so provides.

The proposal also changes the term of office for members of the Labor and Industrial Relations Commission from six years to four years with a maximum of eight years, providing the governor has chosen to reappoint the member for the second term.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Department of Transportation
Office of Administration - Division of Personnel

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA
Director
April 4, 2000